Capital One Financial Corporation
1680 Capital One Drive
McLean, VA 22102-3491

August 14, 2015

Russell G. Golden
Chairman
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: File Reference No. 2015-270 - *Improvements to Employee Share-Based Payment Accounting*

Dear Mr. Golden:

Capital One Financial Corporation ("Capital One") is a diversified financial services company with over $300 billion in assets that offers a broad spectrum of banking products and financial services to consumers, small businesses, and commercial clients. Capital One trades on the New York Stock Exchange under the symbol "COF" and is included in the S&P 100 index. We appreciate the opportunity to provide our comments on the Exposure Draft, *Improvements to Employee Share-Based Payment Accounting* (the "Exposure Draft"), recently issued by the Financial Accounting Standards Board (the "FASB").

We are supportive of the Exposure Draft's overall intention to simplify the accounting for share-based payments and agree that simplification will improve the usefulness of information provided to users of financial statements while decreasing the cost of compliance. Specifically, we agree with the proposed changes regarding (1) minimum tax withholdings and the impact on liability classification, (2) award forfeitures accounting, and (3) cash flow classification. However, we respectfully disagree with the proposed guidance that excess tax benefits and excess tax deficiencies should be recognized in the income statement and believe this change (hereafter, the "Excess Tax Change") is contrary to the FASB's goal of simplification. Our concerns with the proposed guidance and suggested alternative accounting treatment as applicable to public entities are described below.

The economics of share-based payment arrangements are not properly reflected under the current guidance, and the Excess Tax Change does not resolve this weakness. Under the current accounting guidance, excess tax benefits may be accumulated in additional-paid-in capital (the "APIC Pool"), with such APIC Pool available to offset current and future excess tax deficiencies. Excess tax deficiencies are recorded in the income statement to the extent that accumulated excess tax benefits are not available. The awards represent equity transactions and an excess tax deficiency relates to equity value changes, not compensation expense. Intuitively it seems that the ensuing tax effect should be afforded that same equity classification irrespective of whether such tax effect results in an excess tax benefit or an excess tax deficiency. Inclusion of the tax effect in the income statement results in a portion of the tax provision being unrelated to current period earnings.

The Excess Tax Change would create income statement activity and potential volatility that is tied to market movement, participant option exercise habits and the timing of equity award vesting rather than being tied to the Company's earnings performance. We believe this activity would be difficult to explain and difficult to understand by financial statement users. These considerations lead us to conclude that this change is contrary to the FASB's goal of reducing the cost and complexity of accounting for share-based payments.

Additionally, under the proposed guidance, companies would be required to determine how to incorporate the effect of excess tax benefits and deficiencies in companies' tax provisions, a practice that would be incremental to the existing processes due to the new income statement impact. The Exposure Draft is silent on how to include the effect of excess tax benefits and deficiencies on share-based payments in the estimated annual effective rate used in interim quarters, if at all. Inclusion of excess tax benefits and deficiencies in the estimated annual effective rate would complicate the forecasting for these amounts. Companies would be required to make estimates and assumptions about the timing of future option exercises and future stock price movement. On the other hand, inclusion of excess tax benefits and deficiencies as a discrete item in current period tax expense or benefit (rather than as a component of the estimated annual effective rate) would create volatility due to the same factors, including uncertainty around stock price movement, and participant's decisions to exercise option awards. We note that this aspect of the proposed guidance adds another layer of complexity to the accounting for share-based payments and as a result incremental implementation and ongoing costs.

As an alternative approach to the proposed guidance, we believe that the accounting and economics of share-based payments would be best aligned if both the excess tax benefits and the excess tax deficiencies were recognized entirely in additional-paid-in capital irrespective of accumulated excess tax benefits. The exercise or vesting of a share-based payment award is an equity transaction; as such, the ensuing tax effect should be afforded that same classification irrespective of whether such tax effect results in an excess tax benefit or an excess tax deficiency. This better aligns the accounting and the economics of taxes on share-based payments and we believe would be easy to understand by a financial statement user. This alternative also eliminates the time consuming exercise of separately tracking accumulated excess tax benefits on share-based payments in an APIC Pool; and, it would eliminate the need to incorporate the impact of share-based payments in the effective tax rate, thereby reducing the time and cost of accounting for share-based payments.

In addition to the above mentioned concerns, we noted certain areas in the Exposure Draft for which the implementation or ongoing accounting guidance was unclear. We would ask the FASB to provide clarification on the following topics:

- We note that the proposed language within ASC 718-10-18 of the Exposure Draft states that the withholding threshold to determine the balance sheet classification of an award is based on the "employee's maximum individual statutory tax rate." This wording could easily be interpreted as a requirement for employers to track each individual employee's statutory tax rate, albeit at the maximum rate rather than at the minimum. This interpretation is contrary to both the FASB's intent to simplify this guidance and the commentary within BC16 of the Exposure Draft, which indicates that the amendments to this guidance would require an employer to determine only one rate for each jurisdiction rather than one rate for each individual.

- With regard to the Excess Tax Change, we note that the Exposure Draft is silent on how to include the excess tax benefits and deficiencies on share-based payments in the estimated annual effective rate used in interim quarters, if at all.

- Also with regard to the Excess Tax Change, we note that per the Exposure Draft excess tax benefits and deficiencies will no longer be recorded in the APIC Pool; however, the Exposure Draft does not specify the treatment of the APIC Pool upon adoption and in subsequent periods.

Considering the accounting changes in the Exposure Draft or in our proposed alternative, we believe an effective date of no earlier than January 1, 2017 would be appropriate. In addition to our internal process changes mentioned above, we note that our third party stock plan administrator, who we utilize for both administration and financial reporting support for our share based compensation plans, would also need to incorporate changes into their systems and reports. We would subsequently review such changes to ensure appropriate design and effectiveness of internal controls. The above mentioned adoption timeframe would be required to effectuate these various system, process and control changes.

We are supportive of the Exposure Draft's overall intention to simplify the accounting for share-based payments and believe that the comments provided would resolve many of the complexities still remaining within the proposed guidance.

Sincerely,

R. Scott Blackley
Executive Vice President
Controller and Principal Accounting Officer
Capital One Financial Corporation